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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/743,292   | 12/23/2003  | Andre Z. Shiever     | 20516.00            | 7855             |
| 7590   | 01/12/2005  |                      | EXAMINER            |                  |
| Richard C. Litman<br>LITMAN LAW OFFICES, LTD.<br>P.O. Box 15035<br>Arlington, VA 22215 |             |                      | NGUYEN, TRINH T     |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3644                |                  |

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PL

|                              |                            |                  |
|------------------------------|----------------------------|------------------|
| <b>Office Action Summary</b> | Application No.            | Applicant(s)     |
|                              | 10/743,292                 | SHIEVER ET AL.   |
|                              | Examiner<br>Trinh T Nguyen | Art Unit<br>3644 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 December 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-19 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 23 December 2003 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)<br>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)<br>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/23/03</u> . | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____.<br>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)<br>6) <input type="checkbox"/> Other: _____. |
|--|--|

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: a cross piece 35, spacer 39, closure panel securing screw 67 and perforation 69. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 2, 8-10, 11, 13, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (US 2,534,492) in view of Ikuse et al. (US 5,749,321).  
Williams discloses a folding dog box assembly comprising: a top panel; two side

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panels; a rear panel; a base panel; and a front panel; said front panel having an entrance frame therein and framed grate pivotally mounted above said entrance frame for opening and closing said framed grate relative to said entrance frame; said framed grate having a lockable closure latch at its base, and said front panel having a latch keeper mounted thereon cooperating with the closure latch.

Williams lacks the teaching that each of said panels having an inner peripheral edge and spaced pairs of half-hinges along the inner peripheral edge and means for mating the half hinges together, thereby securing said panels to form a closed dog box.

Ikuse et al. teach a similar animal box assembly as that of Williams in which Ikuse et al.'s animal box assembly having each of the panels (17, 16, 15) having an inner peripheral edge and spaced pairs of half-hinges (31, 19, 27, 27a, 18, 26, 20) along the inner peripheral edge and means for mating the half hinges together, thereby securing the panels to form a closed dog box. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the box assembly of Williams so that the panels are secured together by a plurality of spaced pairs of half-hinges and means for mating the half hinges together, in a similar manner as taught in Ikuse et al., since to do so would allow the box assembly to be detachably attached and thus can be readily assembled and/or disassembled more easily.

For claim 2, Williams as modified by Ikuse et al. (emphasis on Williams) further disclose said side panels and said rear panel each have a louvered ventilator (24, 28) therein.

For claim 8, Williams as modified by Ikuse et al. (emphasis on Williams) further disclose said framed grate (37, 42, 43) further comprises an upper slot, an end slot, and a lower slot extending outward from the framed grate (see lines 20-65 of col. 3).

For claim 9, Williams as modified by Ikuse et al. (emphasis on Williams) further disclose a cold weather closure panel (45, 46) having air holes defined therein, the closure panel being slidably received in said framed grate slots.

For claim 10, Williams as modified by Ikuse et al. (emphasis on Williams) further disclose said front and rear panels each have an inner surface and vertical edges, the dog box further comprising a plurality of angles (19) having a first flange attached to the inner surfaces of said front and rear panels along the vertical edges thereof, and a second flange overlapping the side panels vertically.

For claim 11, Williams as modified by Ikuse et al. (emphasis on Williams) further disclose said top panel has a bottom surface and a periphery, the dog box further comprising a plurality of angles (19) the periphery of the bottom surface of said top panel, each said angle having a flange overlapping the front, side, and rear panels.

For claim 13, Williams as modified by Ikuse et al. (emphasis on Williams) further disclose at least one handle (52) mounted on each said side panel.

For claim 16, Williams as modified by Ikuse et al. (emphasis on Williams) further disclose a handle (52) pivotally mounted on said framed grate.

4. Claims 3-7, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of Ikuse et al., and further in view of Havener (US 6,243,116).

As described above, Williams as modified by Ikuse et al. teach most of the

claimed invention except for the panels define a plurality of internal pockets wherein foam insulations filling the pockets, and a plurality of beams defining a panel frame having pockets.

Havener teaches a similar animal box assembly as that of Williams as modified by Ikuse et al. in which Havener's animal box assembly having the panels define a plurality of internal pockets wherein foam insulations filling the pockets, and a plurality of beams defining a panel frame having pockets (see Figure 13). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the box assembly of Williams as modified by Ikuse et al. so as to include the panels define a plurality of internal pockets wherein foam insulations filling the pockets and a plurality of beams defining a panel frame having pockets, in a similar manner as taught in Havener, in order to improve the overall structural integrity of the animal box assembly.

Regarding the use of a specific material (such as aluminum alloy or PVC) for the inner skin and/or the outer skin of the panel. It would have been obvious to one of ordinary skill in the art at the time the invention was made to select such a material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Also, since applicant did not provide a reason and/or showing any criticality as to why the specific material has to be aluminum alloy or PVC. Furthermore, it is believed that through trial and error during the constructing process that one comes up with the best material to meet the design criteria.

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5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of Ikuse et al., and further in view of Baker (US 1,040,489).

As described above, Williams as modified by Ikuse et al. teach most of the claimed invention except for a louvered ventilator having a drip edge forming an awning above the ventilator in order to prevent rain from entering the dog box through the ventilator.

Baker teaches a similar animal box assembly as that of Williams as modified by Ikuse et al. in which Baker's animal box assembly having a louvered ventilator having a drip edge (29, 27, 26) forming an awning above the ventilator in order to prevent rain from entering the dog box through the ventilator. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the box assembly of Williams as modified by Ikuse et al. so as to include a drip edge forming an awning above the ventilator, in a similar manner as taught in Baker, since to do so would prevent rain from entering the box assembly through the ventilator.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of Ikuse et al., and further in view of Spina (US 4,869,206).

As described above, Williams as modified by Ikuse et al. teach most of the claimed invention except for a plurality of height adjustable feet mounted underneath said base panel.

Spina teaches a similar animal box assembly as that of Williams as modified by Ikuse et al. in which Spina's animal box assembly having a plurality of height adjustable feet (50) mounted underneath said base panel. It would have been obvious to one

having ordinary skill in the art at the time the invention was made to have modified the box assembly of Williams as modified by Ikuse et al. so as to a plurality of height adjustable feet, in a similar manner as taught in Spina, so that the box assembly can be moved around with ease.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of Ikuse et al., and further in view of Loukas (US 3,499,246).

As described above, Williams as modified by Ikuse et al. teach most of the claimed invention except for a plurality of insulation strips extending around said base panel, said top panel, and said front and rear panels.

Loukas teaches a concept of using insulation strips (8, 10) on structural members as a means for controlling noises and/or weather. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the box assembly of Williams as modified by Ikuse et al. so as to include the use of insulation strips extending around the base panel, the top panel, and the front and rear panels, in a similar manner as taught in Loukas, since to do so would provide some sort of means to control noises and/or weather.

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of Ikuse et al., and further in view of Hampel (US 6,408,796) and Losenno (US 3,966,245).

As described above, Williams as modified by Ikuse et al. teach most of the claimed invention except for a handle having a pivot pin extending through the aperture in the first end, a cross piece disposed on the second end, a securing bulb positioned

along the handle cooperating with receiver disposed on the top panel when the grate is in an open position, and a spacer disposed on the handle in order to keep the handle spaced away from the framed grate when the handle is hanging vertically in order to aid in grasping the cross piece.

Hampel teaches a similar animal box assembly as that of Williams as modified by Ikuse et al. in which Hampel's animal box assembly having a handle (114, 106, 104) cooperating with a receiver (52) disposed on the top panel when the grate (102) is in an open position (see Figure 21) and Losenno teaches the concept of keeping a door/grate open by utilizing a handle (14, 12) having a pivot pin (34) extending through the aperture in the first end, a cross piece (18) disposed on the second end, a securing bulb (24) positioned along the handle cooperating with receiver (16). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the box assembly of Williams as modified by Ikuse et al. so as to include the particular handle as taught in Hampel and Losenno, since to do so would merely replace one old and well known handle means with another art equivalent old and well known handle means.

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of Ikuse et al., and further in view of Hampel (US 6,408,796) and Losenno (US 3,966,245), and further in view of Van Kooten (US 5, 642, 845).

As described above, Williams as modified by Ikuse et al., and further modified by Hampel and Losenno, teach most of the claimed invention except for a spacer disposed on the handle.

Van Kooten teaches the concept of using a spacer (42) on a handle member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the handle of Williams as modified by Ikuse et al., and further modified by Hampel and Losenno, in a similar manner as taught in Van Kooten, so as to prevent the handle from scratching adjacent surfaces.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trinh T Nguyen whose telephone number is (703) 306-9082. The examiner can normally be reached on M-F (9:30 A.M to 6:00 P.M).

The examiner's supervisor, Teri Luu can be reached on (703) 305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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Patent Ex.  
Art Unit 3644  
1/7/05